FOR MYSORE STATE

Secl. H-27—65,000 31 10 50.

Public (Elections) (1948) Department.

Ms SERIES.

G.O. NO. 3212

Dated 22 - 12 - 1948

[Despatch Abstract.]

Elections- Provincial Legislature- The Madras Legislative Assembly (Railway Employees Removal of disqualifications) Act 1946, (Madras Act III of 1946) Re-enactment-Papers Recorded.

Extracts from notes relating to G.O. No. 3812 Public (Elections) Department dated 22-12-1948.

Summary of the file on the question of Re-enactment of Act III of 1946.

This file relates to the question whether the Madras Legislative Assembly (Railway Employees Removal of Disqualifications) Act, 1946, which was enacted by His Excellency the Governor during the Section 93 Regime should be repealed or re-enacted by an Act of the Legislature with a view to its continuance beyond 29-4-1948 when the present Act will cease to have force.

Under Section 69 (1) (a) of the Government of India Act 1935, a person shall be disqualified for being chosen as, and for being a member of the Provincial Legislative Assembly or Legislative Council if he holds an office of profit under Crown in India, other than an office declared by an Act of the Provincial Legislature not to disqualify its holder. For the Madras Legislative Assembly there is a Regular Trade Union Constituency, the extent of which is the Registered Railway Trade Unions operating in the Province. These Trade Unions are:-

(1) The M & S.M. Ry. Employees Union;
(2) The B.N. Ry. Indian Labour Union;
(3) The S.I.Ry. Union, Golden Rock, Trichy; and
(4) The S.I.Ry. Employees' Association, Trichy.

The members of the Trade Unions are eligible to be included in the electoral rolls of the Trade Union Constituency and till 1945 when these Railways were Company Managed there was no legal bar for the employees of these Railways being elected as members of the Provincial Legislature. From 1945, these Railways became State managed and their employees became subject to the disqualifications mentioned at 'A' above.

At the instance of the All India Railwaymen's Federation, Madras, the Madras Government Consulted the Government of India in November 1945 as to whether they would permit employees of state-managed railways operating in this Province to stand for Provincial Elections if this Government passed the necessary legislation exempting the Railway employees from the scope of section 69(1)(a) of the Government of India Act, 1935. The Government of India replied in the affirmative and His Excellency the Governor of Madras enacted, under section 93 of the G of I Act, the Madras Act III of 1946. According to this Act, no person shall be disqualified for being a member of the Madras Legislative Assembly to represent the Railway Trade Union Constituency by reason of the fact that he holds an office of profit in the service of the B.N.Ry., M. & S.M. Ry. or the S.I.Ry.

The proclamations issued under section 93 of the Government of India Act, 1935 have been revoked with effect from 30-4-1946. Under section 93 (4) of the Government of India Act, 1935, the above Act will continue to have effect until 29-4-1948 unless sooner repealed or reenacted by Act of the appropriate Legislature.

In view of the provision made in paragraph 3 of the 5th Schedule to the Act read with paragraph 23 of Part II of the Government of India Provincial Legislative Assemblies Order 1936, for the election of a Labour Representative to represent Railway Trade Union, it was deemed necessary to provide an opportunity (by the continuance of Act III of 1946) to the Labour Staff employed on state managed railways for taking advantage of election to the Assembly. With this end in view it was proposed that Act III of 1946, which was a Governor's Act may be re-enacted.

P.T.O.

A draft memorandum on the proposal to re-enact Act III of 1946, was prepared and, after consultation with P.W.D. and Legal, was circulated to all Hon'ble Ministers and His Excellency the Governor. When the file was circulated, there was a disagreement on the question and therefore His Excellency ordered that as there was a disagreement on an important matter of principle, and, if the Hon'ble the Prime Minister (Sri T. Prakasam) agreed, the matter should be decided at a Cabinet meeting. At two meetings of the Councils of Ministers the subject was postponed and at the third meeting it was decided that the previous Hon'ble Minister (Industries and Labour) might study the matter further in the light of the practice elsewhere before the subject was discussed in Cabinet. With reference to this decision Chief Secretary (Mr. Scott Brown) ordered that a routine note might be put up by P.W.D.

The following paragraphs throw further light on the question of representation of the Railway Constituency in the Legislature of the Province and also set forth the practice obtaining in England:

The main question in the file is whether Act III of 1946 which relates to the Railway Trade Union Constituency should be re-enacted. The minutes of Hon'ble Ministers on pp. 9-10ante are not unanimous. A secondary question as to whether the concessions to be granted to Railway servants may not be sought to be applied to other branches of Government service such as colleges etc. was also raised in circulation. The previous H.M. (I & L) pointed out that Railway workers had franchise under the Government of India Act and they were allowed certain number of seats in all provinces. As there is no separate constituency for colleges (apart from the University constituency) unlike the Railway Trade Union Constituency the concessions may not be applicable to other than Railway employees

When the file was circulated to the Ex-H.M. (I & L) he directed that the file should be put up again after 25-5-1947. The file may now be circulated for orders.

The file deals with the proposal to re-enact the Madras Legislative Assembly (Railway Employees Removal of disqualifications) Act, 1946 (Act III of 1946) which was enacted by His Excellency the Governor during the section 93 regime. Please see the orders in circulation at the bottom on page 17 ante.

With reference to Secretariat Instructions 32 (2) the draft memorandum already seen by P.W.D. and Legal is put up below. The case may now be circulated to all Ministers and His Excellency the Governor.

(Sd) X X X X X
8/5/47

H.M. (Finance) (Sd) B.G.A
17/5
H.M. (Rural Development Department) (Sd) V.K.
21/5
H.M. (Public Health) (Sd) A.B.S
26/5
H.M. (Land Revenue) (Sd) K.R.
4/6
H.M. (Agriculture) (Sd) K.M.
5/6.
H.M. (Education) (Sd) T.S.A.
11/6/
H.M. (Local Administration) (Sd) X X X
12/6
H.M. (Industries) (Sd) H.S.R.
19/6
H.M. (Prohibition) (Sd) D.J.
13/6
H.M. (P.W.D.) (Sd) M.B. 20/6
H.M. Food (Sd) X X X 23/6
H.M. (Home) (Sd) P.S. 23/5
H.M. O.P. R. 26.6.
H.C. A.N. 30.6.47

Please see copy of U.O. note from the legal Department on p. 21 c.f. and G.O. No. 140 Legal dated 8-12-1947. The file may be kept till the Bill is re-enacted.

P.T.O

G.O.Ms.No.3212 dt. 22.12.48.

Elections -- Provincial Legislature - The Madras Legislative Assembly (Railway Employees Removal of Disqualifications) Act, 1946, (Madras Act III of 1946) - Reenactment - papers - Recorded.

The Madras Legislative Assembly (Railway Employees Removal of Disqualifications) Act, 1946, (Madras Act III of 1946) has been permanently reenacted. Please see the firs schedule to Madras Act VII of 1948. The papers may be recorded in a G.O.